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Reports of Select Committees and the Bills as reported by the Committees.

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THE KERALA MONEY LENDERS BILL, 1957.

(Report of the Select Committee.)

The Select Committee to which the Kerala Money Lenders Bill, 1957 was referred have considered the Bill clause by clause and now submit this. their Report with the Bill as reported by the Committee annexed thereto.

2. The Bill was published in the Gazette Extraordinary dated the 10th December 1957.

3. The Bill was introduced in the Legislative Assembly on 18th December 1957 and the motion for reference to a Select Committee was adopted on the same day.

4. *Clause 1 (3).* The Committee decided that the provisions of the Act may be brought into force in any area after the expiry of one month from the date of the publication of the notification. Clause 1 (3) has been modified suitably for the above purpose.

5. *Clause 2.* (a) The Committee decided to include the State Bank of India also within the definition of 'Bank', and for the purpose, the words "includes the State Bank of India" have been added since the State Bank of India is not a bank coming within the scope of the Banking Companies Act.

(b) (i) The Committee decided to exclude from the purview of loans the payments made to loans floated by the Government of India or the Government of any State. The following has been added as item (ii) of sub clause (5) and the remaining items renumbered:

"(ii) an advance made to any loan floated by the Government of India or the Government of any State;".

(c) *Item (vi) sub clause (5).* The Committee considered that promissory notes need not be excluded from the definition of loan for such exclusion will defeat the purpose of the legislation and that negotiable instruments exceeding Rs. 5,000 alone need be excluded from the purview of the definition of 'loan'.

(d) The Committee decided to exclude 'an advance made under the chit fund scheme' also from the purview of the definition of 'loan'. Otherwise the working of chit funds will be affected. Item (ix) has been added to sub-clause (5) accordingly.

(e) The Committee decided to delete the words "persistently follows such other person from place to place or" from sub clause (6) (b) for the reason that such practice of persistently following the debtor is not known in this State.

(f) The Committee decided to delete sub clause (6) (c), for the Committee was of opinion that the provision is too vague and the scope unlimited and was capable of misuse.

(g) The Committee considered it desirable to omit the words "interrogates the members of the family of such other person or" from sub clause (6) (b). Otherwise the mere questioning of any member may become actionable.

(h) The Committee decided to delete sub clause (6) (e), for the Committee was of opinion that this sub clause is superfluous in view of sub clauses (6) (a) and (b).

(i) The Committee considered that the provision in the Bill, excluding, agriculturists, member of a learned profession and wholetime servants of any State or Union, from the purview of the definition of 'money-lender', should be deleted. The Committee was of opinion that in a State like Kerala, where the main occupation is agriculture, it is not feasible to exclude the agriculturists from the purview of the definition of 'money lenders'. So also the Committee was of the view that there need not be any exclusion of members of a learned profession and wholetime servants of Government, for such exclusion will lead to complications and provide loopholes for evading the provisions of the Bill. Accordingly sub clauses (7) (b) to (d) have been deleted and the exclusion of banks and co-operative societies contained in sub clause (7) (a) has been provided in the definition of money lender itself and so sub clause (7) (a) has become superfluous. That sub clause has also been deleted.

6. *Clause 3.* (a) The Committee was of opinion that the money lenders should be given one month's time or such time as Government may decide to apply for license. The Committee decided that provision may also be made to permit the money lenders to carry on their business after making an application for a license even though a license was not actually issued. Clause 3 is numbered as Clause 3(1) and modified accordingly and explanations I and II are changed as sub clauses (2) and (3) respectively.

(b) The Committee decided to substitute the word 'joint' for the word 'Hindu' occurring in clause 3(3) (b) as renumbered, for the Committee was of the view that in this State the undivided joint family system is not confined to the Hindus alone.

7. *Clause 4.* (a) It is provided that a person under the age of 18 years shall be eligible to apply for a license only through a guardian. The Committee considered that lunatic shall likewise be eligible to apply for license through a guardian, for they feel that in some cases where money lending is a family business, the then proprietor may be a lunatic. So in the first proviso to sub clause (1) after the word 'years' and before the word 'shall', the following words are inserted "or a lunatic as defined in section 3 (5) of the Indian Lunacy Act, 1912".

(b) The Committee wanted to make sub clause (3) (d) more clear. So it was decided to recast the sub clause so that if the application for license is made within six months of the cancellation of the license, the licensing authority may refuse to grant the license. The clause has been modified accordingly.

8. *Clause 7.* The Committee decided to add the following "or at rates exceeding such lower rates as may be prescribed" at the end of sub clause (1). This will enable Government to reduce rates of interest, if during the working of the Act Government feel that the rates have to be reduced.

The Committee also decided to omit the words "profit or other sums whatsoever" from sub clause (3).

9. *Clause 8.* The Committee decided that the time within which the appeal should be preferred may be specified. The words "within thirty days, excluding the time for obtaining certified copy of the order" have been inserted between "sub-section (2)" and "as if" of sub clause (4).

10. *Clause 9.* (a) The Committee considered that it is better that separate account is kept for each *debt* and not for each *debtor*. So the word 'debtor' in sub clause (1) (a) has been changed into 'debt'.

(b) Sub clause (1) (c) provides that the debtor on requisition be furnished with a statement of accounts. The proviso provides that statements need not be furnished if the debtor is furnished with a pass book. The Committee was of opinion that this proviso to sub clause (c) may be deleted since such a proviso may give the money lender a chance to defeat the provisions made for furnishing statement of accounts.

(c) The Committee feel that it is not enough if interest is disallowed for the period of default in furnishing the accounts of the debtor, but they are of opinion that the money lender shall be given some punishment also. So the Committee decided to add at the end of sub clause (6) the following "and shall be liable to fine not exceeding two hundred and fifty rupees".

11. *Clause 10.* (a) The Committee decided that the Inspectors appointed for the purposes of this Act should possess such qualifications as may be prescribed. So the following words "possessing such qualifications as may be prescribed" were inserted after the word 'person' in sub clause (1).

(b) The Committee decided that the Inspector may inspect the records, file, etc., at the business hours. The words 'at all reasonable times' have been accordingly inserted between the words 'such premises' and 'and may' in sub clause (3) (a).

12. *Clause 14.* The Committee considered that it is better to omit the words "or is found to molest or abet the molestation of any debtor for the recovery of any debt" from sub clause 14 (1) (d) for they are of the view that this portion is superfluous in view of the other provisions in the Bill.

13. *Clause 16.* The Committee decided to delete the words "to any compensation in respect of such cancellation or" for the Committee was of opinion, that when a license is cancelled under clause 14, there is no question of any compensation being paid to the licensee.

14 *Clause 17.* The Committee considered that imposition of fine was sufficient punishment for carrying on business without license and the penalty of imprisonment was excessive. So the Committee decided to delete the words 'with imprisonment which may extend to six months or'.

15. *Clause 18.* For contravening the provisions of this Act for which punishment is not specifically provided for, the Committee decided that the punishment need only be fine. The Committee was of opinion that imprisonment is too severe in such cases. So the Committee decided to delete the words "with imprisonment which may extend to six months or".

16. *Clause 20.* The Committee decided to delete clause 20, for in this State there is only first class and second class Magistrates functioning and the Inspector will make his complaint to the proper court.

The other changes made by the Committee are only either verbal or consequential.

V. R. KRISHNA IYER,
Chairman of the Select Committee.

THE KERALA MONEY-LENDERS BILL, 1957

(As Reported by the Select Committee)

A

BILL

to provide for the regulation and control of the business of money-lenders in the State of Kerala and to consolidate the laws relating to the same.

Preamble.—WHEREAS it is expedient to provide for the regulation and control of the business of money-lenders and to consolidate the laws relating to the same in the State of Kerala;

BE it enacted in the Ninth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Money-lenders Act, 1958.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force in any area on such date as the Government may specify by notification, the date being not earlier than one month from the date of the notification and the Government may cancel or modify such notification.

2. *Definitions.*—In this Act, unless the context otherwise requires—

(1) 'bank' means a banking company as defined in section 5, clause (c), of the Banking Companies Act, 1949 (Central Act X of 1949) and includes the State Bank of India;

(2) "Co-operative society" means a society registered or deemed to be registered under the Madras Co-operative Societies Act, 1932 (Madras Act VI of 1932) or the Travancore-Cochin Co-operative Societies Act, 1951 (Act X of 1952);

(3) "interest" includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise, but does not include any sum charged by a lender in accordance with the provisions of this Act or any other law for the time being in force, for, or on account of, costs, charges or expenses;

(4) "licence" means a money-lender's licence granted under this Act;

(5) "loan" means an advance whether of money or in kind at interest, and includes any transaction which the Court finds in substance to amount to such an advance but does not include—

(i) a deposit of money or other property in a Government Post Office Savings Bank or in a bank, or in a company

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as defined in the Companies Act, 1956 (Central Act I of 1956), or with a co-operative society;

(ii) an advance made to any loan floated by the Government of India or the Government of any State;

(iii) an advance made by a bank or a co-operative society or an advance made from a provident fund to which the Provident Funds Act, 1925 (Central Act XIX of 1925) applies;

(iv) an advance made by Government or by any person authorised by the Government to make advances in their behalf, or by any local authority;

(v) an advance made by any authority specified by Government by notification in the Gazette;

(vi) an advance made by any person bona fide carrying on any business, not having for its primary object the lending of money, if such loan is advanced in the regular course of such business;

(vii) an advance exceeding five thousand rupees made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881 (Central Act XXVI of 1881); .. ..

(viii) an advance made to its members by any Nidhi or Permanent Fund registered under any law in force in India;

(ix) an advance made under any chit fund scheme or kuri or chitty;

(6) a person shall be deemed to "molest" another person if he—

(a) obstructs, or uses violence to, or intimidates, such other person, or

.. ..

(b) interferes with any property owned or used by him or deprives him of, or hinders him in the use of, any such property, or

.. ..

(c) does any act calculated to annoy or intimidate the members of the family of such other person;

(d) .. ..
.. ..
.. ..

(e) .. ..
.. ..
.. ..

(7) "money-lender" means a person whose main or subsidiary occupation is the business of advancing and realising loans, but excludes a bank or a Co-operative Society;

Explanation—Where a person who carries on in the State of Kerala the business of advancing and realising loans is resident outside the State, ... the agent of such person resident

in the State of Kerala shall be deemed to be the money-lender in respect of that business for the purposes of this Act;

(8) "principal" in relation to a loan means the amount actually lent to the debtor;

(9) "year" means the financial year.

3. *Money-lender to obtain licence.*—(1) From the date on which the provisions of this Act are brought into force in any area, no person firm or joint family shall, except for one month or such longer period as the Government may specify carry on or continue business as a money-lender at any place in such area without a licence obtained under this Act or in contravention of the terms thereof:

Provided that nothing in this section shall be deemed to prohibit a person who has applied for a licence to carry on or to continue business as a money-lender pending orders on his application.

(2) Where a money-lender has more than one shop or place of business, whether in the same town or village or in different towns or villages he shall obtain a separate licence in respect of each shop or place of business.

(3) (a) Where a money-lender is a registered firm the licence shall be obtained in the firm's name.

(b) Where a money-lender is an undivided Joint family, the licence shall be obtained in the name of the manager or the karanavan or the yajaman, as the case may be, described as such in the licence.

(c) Where a money-lender is any other association of individuals, not required to be registered under the Indian Companies Act, 1956 (Central Act I of 1956), a separate licence shall be obtained by each such individual in his name describing himself as a member of the association:

Provided that nothing contained in this sub-section shall affect the operation of section 69 of the Indian Partnership Act, 1932 (Central Act IX of 1932).

4. *Grant and refusal of licences.*—(1) Every application for a money-lender's licence shall be in writing and shall be made to the licensing authority and in the manner prescribed under this Act:

Provided that a person under the age of eighteen years or a lunatic as defined in section 3 (5) of the Indian Lunacy Act, 1912 shall be eligible to apply for a licence only through a guardian:

Provided further that if any person acting as a guardian on behalf of a minor or a lunatic applies for, and obtains, a licence under this Act, such guardian shall be subject to all the provisions of this Act as if the licence has been granted to himself.

(2) Every licence shall be granted in such form and subject to such conditions as may be prescribed including conditions as to payment of licence fees not exceeding one hundred rupees.

(3) The licensing authority may by order in writing refuse to grant a licence if such authority is satisfied—

(a) that the applicant has not complied with the provisions of this Act or the rules made thereunder in respect of an application for the grant of a licence; or

(b) that the applicant has made wilful default in complying with or knowingly acted in contravention of any requirement of this Act; or

(c) that the applicant has—

(i) knowingly participated in or connived at any fraud or dishonesty in the conduct of or in connection with the business of money-lending; or

(ii) been found guilty of an offence under Chapter XVII or Chapter XVIII of the Indian Penal Code (Central Act XLV of 1860); or

(iii) been found guilty of an offence under section 11 or section 13 on two or more occasions; or

(d) that the application is made within six months of the cancellation of the licence.

(4) Any person aggrieved by an order of the licensing authority under sub-section (3) may, within one month from the date of communication of such order to him, appeal to the prescribed authority.

(5) Every licence granted under this Act, shall, subject to the provisions of sub-section (7), expire on the last day of the year in which it was granted.

(6) A licence granted under sub-section (2) may be renewed from year to year and the provisions of sub-sections (1) to (5) shall apply in relation to the renewal of a licence as they apply in relation to the grant of a licence.

(7) If orders refusing to renew a licence are not communicated to a money-lender by the licensing authority before the expiry of his current licence, the money-lender shall, notwithstanding such expiry, be deemed to have a valid licence till orders are received by him on his application for renewal.

(8) Nothing in this section shall be deemed to disentitle a money-lender, whose licence has expired or has not been renewed, from taking steps to recover any loan advanced during the period when the licence was in force.

5. *Change of place of business by money-lender.*—No money-lender shall change his place of business without previous notice to the licensing authority and without having the address of the new place of business duly endorsed on his licence.

6. *Money-lenders to exhibit their names over shops.*—Every money-lender shall always keep exhibited over his shop or place of business, his name with the word "money-lender" and its equivalent in the regional language.

7. *Interest and charges allowed to money-lenders.*—(1) No money-lender shall charge interest on any loan, at a rate exceeding nine per cent per annum, simple interest, where the loan is a secured loan, or at a rate exceeding twelve per cent per annum simple interest, where the loan is an unsecured loan or at rates exceeding such lower rates as may be prescribed.

(2) A money-lender may demand and take from the debtor such charges and in such cases, as may be prescribed.

(3) A money-lender shall not demand or take from the debtor any interest, ... in excess of that payable under sub-section (1).

8. *Power to deposit in Court money due on loan.*—(1) Where a money-lender refuses to accept the whole or any portion of the money or other property due in respect of his loan, the debtor may deposit the said money or property into the Court having jurisdiction to entertain a suit for recovery of such loan and apply to the Court to record full or part satisfaction of the loan, as the case may be.

(2) Where any such application is made, the Court shall, after due inquiry, pass orders recording full or part-satisfaction of the loan as the case may be.

(3) The procedure laid down in the Code of Civil Procedure, 1908 (Central Act V of 1908), for the trial of suits shall, as far as may be, apply to applications under this section.

(4) An appeal shall lie from an order passed by a Court under sub-section (2) within thirty days excluding the time for obtaining a certified copy of the order as if such an order relates to the execution, discharge or satisfaction of a decree within the meaning of section 47 of the Code of Civil Procedure, 1908 (Central Act V of 1908).

9. *Money-lender to keep books, give receipts etc.*—(1) Every money-lender shall—

(a) regularly record and maintain or cause to be recorded and maintained, an account showing for each debt separately—

(i) the date of the loan, the amount of the principal of the loan and the rate of interest charged on the loan; and

(ii) the amount of every payment received by the money-lender in respect of the loan, and the date of such payment.

(b) give to the debtor or his agent a receipt for every amount paid by him, duly signed and, if necessary, stamped at the time of such payment;

(c) on requisition in writing made by the debtor furnish to him, or, if he so requires, to any person mentioned by him in that behalf in his requisition a statement of account signed by himself or his agent, showing the particulars referred to in clause (a) and also the amount which remains outstanding on account of the principal and of interest and may charge such fee therefor as the Government may prescribe and; ....

....

(d) submit to the Inspector concerned such returns relating to the loans advanced by him, in such form and at such times as may be prescribed.

(2) All records or entries made in the books, accounts and documents referred to in sub-section (1) shall be in such language or languages as may be prescribed in respect of any area.

(3) A debtor to whom a statement of account has been furnished under clause (c) of sub-section (1) and who fails to object to the correctness of the account shall not by such

failure alone be deemed to have admitted the correctness of such account.

(4) In the receipt to be given under clause (b) of sub-section (1) or in the statement of account to be furnished under clause (c) of that sub-section the figures shall be entered only in Arabic numerals.

(5) In any suit or proceeding relating to a loan if the Court finds that a money-lender has not maintained an account as required by clause (a) of sub-section (1), he shall not be allowed his costs.

(6) If any money-lender fails to give to the debtor or his agent a receipt as required by clause (b) of sub-section (i) or to furnish on a requisition made under clause (c) of that sub-section a statement of account as required therein within one month after such requisition has been made, he shall not be entitled to any interest for the period of his default, and shall be liable to a fine not exceeding two hundred and fifty rupees.

(7) Notwithstanding any agreement between the parties or any law for the time being in force, when a statement is furnished to a debtor under this section on any day during a month, the interest due shall be calculated as payable for the entire month irrespective of the fact that such statement is furnished on any such day.

10. *Appointment of Inspector and their powers.*—(1) The Government or any authority or officer empowered by them may, by notification in the Gazette, appoint one or more persons possessing such qualifications as may be prescribed to be Inspectors for the purposes of this Act and specify in such notification the local limits of their jurisdiction.

(2) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

(3) (a) A magistrate of the first class or any magistrate specially empowered in this behalf may, on receiving a report from an Inspector that a person carries on without a licence or that a money-lender carries on in contravention of the provisions of this Act or the conditions of the licence granted thereunder the business of money-lending at any place within the jurisdiction of such magistrate, issue a warrant empowering the Inspector to enter such place with such assistants as he considers necessary and inspect the books, accounts, records, files, documents, safes, vaults and pledges in such premises. On receiving such warrant, the Inspector may enter the place and inspect the books, accounts, records, files, documents, safes, vaults and pledges in such premises at all reasonable times and may take to his office for further investigation such books, accounts, records, files and documents as he considers necessary:

Provided that if the Inspector removes from the premises any books, accounts, records, files and documents, he shall give to the person in charge of the place, a receipt describing the books, accounts, records, files and documents so removed by him:

Provided further that within twenty-four hours of the removal of the books, accounts, records, files and documents from the premises, the Inspector shall either return them to the person from whose custody they were removed or produce them in the Court of the Magistrate who issued the warrant. Such Magistrate may return the books, accounts, records, files and documents or any of them to the person from whose custody they were removed by the Inspector after taking from such person such security as the Magistrate considers necessary for the production of the books, accounts, records, files and documents when required whether by the Inspector or by the Court, or may pass such other orders as to their disposal as appear just and convenient to the Magistrate.

(b) An Inspector shall have authority to require any person whose testimony he may require regarding any loan or any money-lending business, to attend before him or to produce or cause to be produced any document and to examine such person on oath.

(4) An Inspector may apply for assistance to an officer in charge of a police station and take police officers to accompany and assist the Inspector in performing his duties under this Act.

11. *Money-lender advancing smaller amount or securing higher interest than that specified in the accounts, etc. to be punishable.*—(1) Any money-lender whether licensed or not—

(a) who actually advances an amount less than the amount shown in his accounts or registers or other documents relating to the loan, or

(b) who takes or receives interest or any other charge at a rate higher than the rate shown in the accounts, registers or documents aforesaid or allowed under this Act shall be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) If a money-lender is convicted of an offence under sub-section (1) the Court convicting him may cancel his licence as a money-lender.

12. *Cognizance of offences.*—No Court shall take cognizance of an offence punishable under this Act or the rules made thereunder except on a complaint in writing made by the Inspector.

13. *Penalty for molestation of debtor.*—Whoever molests or abets the molestation of any debtor for the recovery of any loan shall be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

14. *Power to cancel licences, etc.*—(1) The licensing authority may, at any time, during the term of any licence, cancel it by an order in writing—

(a) if the licensee carries on the business in contravention of any of the provisions of this Act or the rules made thereunder or of the conditions of the licence, or

(b) if any reason for which the licensing authority could have refused to grant the licence to the money-lender under sub-section (3) of section 4, is brought to the notice of that authority after the grant of the licence, or

(c) if the licensee is convicted for an offence under section 9 or section 11 or section 13, or

(d) if the licensee maintains false accounts..........

.. ..

(2) Before cancelling a licence under sub-section (1), the licensing authority shall give the licensee a notice in writing stating the grounds on which it is proposed to take action and requiring him to show cause against it within such time as may be specified in the notice.

(3) Any person aggrieved by an order of the licensing authority cancelling a licence may, within one month of the date of communication of such order to him, appeal to the prescribed authority.

15. *Publication of order of cancellation.*—Every order of cancellation of a licence under this Act shall be notified in the Gazette and also on the notice board of the office of the licensing authority.

16. *No refund of licence fee when licence cancelled.*—A person whose licence is cancelled under section 14 shall not be entitled .. .. or to the refund of any fee paid in respect of such licence.

17. *Penalty for carrying on business without licence.*—Whoever carries on the business of money-lending without a licence or otherwise than in conformity with the terms and conditions of a licence shall be punished .... with fine which may extend to one thousand rupees or with both:

Provided that a person shall not be deemed to carry on the business of money-lending without a licence if, after the expiry of the period of the licence granted to him, he had ceased to carry on the business of money-lending but was taking steps to recover any loan advanced by him during the period when the licence was in force.

18. *Penalties.*—(1) Whoever contravenes any of the provisions of this Act or of any rule made thereunder or of any terms or conditions of a licence granted or deemed to be granted thereunder or makes a claim or a statement which is false or which he does not believe to be true shall, if no other penalty is elsewhere provided for in this Act for such contravention, be punished ...... with fine which may extend to one thousand rupees or with both.

Explanation.—The cancellation of a licence under section 14 shall not be deemed to be a penalty for the purposes of this sub-section.

(2) Where a contravention of any of the provisions of this Act or of any rule made thereunder of which a person is convicted consists of an omission to do a thing, the Magistrate may, when convicting the offender direct him to do the thing before an appointed day and may on the failure of the offender to do the thing before the said day, pass an order, whether the offender appears in court, or not on that day, cancelling his licence.

19. *Transfer of licence to heir.*—(1) Where a licensee under this Act dies, any person claiming to be his legal representative may apply to the licensing authority for transferring in his name the licence standing in the name of the deceased.

(2) Every such application shall be in such form and shall contain such particulars as may be prescribed.

(3) The licensing authority may, if he is satisfied that the applicant is in fact the legal representative of the deceased and that he is otherwise eligible to a licence under this Act, transfer the licence in the name of the applicant after obtaining from the applicant a declaration in the prescribed form.

(4) Any licence transferred under sub-section (3) shall be deemed to have been granted to the applicant himself and shall be valid for the period for which it would have been valid if the licence had not been transferred, and the provisions of this Act shall apply accordingly.

20. *Contracts not to be void on account of offence.*—Where a money-lender is guilty of an offence punishable under this Act any contract made by him in relation to his business of money-lending shall not be void by reason only of that offence nor shall he by reason only of that offence, lose his right to the loan and the interest and other charges, if any, payable in respect thereof.

21. *Power to make rules.*—(1) The Government may make rules to carry out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the form and the particulars to be contained in an application for a licence under this Act;

(c) the terms and conditions subject to which a licence may be granted;

(d) the form in which books, accounts and documents specified in this Act shall be recorded, maintained, kept or used;

(e) the procedure which should be followed and the powers which may be exercised by the authorities exercising functions, holding inquiries and hearing appeals under this Act.

(3) All rules made under this Act shall, as soon as possible after they are made be placed before the Legislative Assembly, and shall be subject to such modifications by way of amendments or repeal as the Assembly may make within fourteen days on which the Assembly actually sits either in the same session or in more than one session.

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.

THE KERALA LIME SHELLS (CONTROL) BILL, 1957.

(Report of the Select Committee)

The Select Committee to which the Kerala Lime Shells (Control) Bill 1957 was referred, have considered the Bill clause by clause and present this their report, with the Bill as reported by the Committee, annexed thereto.

2. The Bill was published in the Gazette Extraordinary dated the 23rd November 1957.

3. The Bill was introduced in the Legislative Assembly on the 17th December 1957 and the motion for reference to the Select Committee was adopted on the same date.

4. *Clause 10.* The Committee consider that the maximum term of imprisonment provided under the clause may be reduced from three years to six months. The clause has been modified accordingly.

5. *Clause 12 (New).* The Committee have added a new clause to the effect that all offences under the Act shall be cognisable.

6. The other changes made by the Committee are only either verbal or consequential.

JOSEPH MUNDASSERI,
Chairman of the Select Committee.

THE KERALA LIME SHELLS (CONTROL) BILL, 1957

(As reported by the Select Committee)

A Bill to provide for the control of the acquisition, sale, supply and distribution of lime-shells in the State of Kerala.

Preamble.—WHEREAS it is expedient to provide for the control of the acquisition, sale, supply and distribution of Lime-shells in the State of Kerala;

BE it enacted in the Ninth Year of the Republic of India as follows:—

1. (1) *Short title, extent and commencement.*—(1) This Act may be called the Kerala Lime-shells (Control) Act, 1958;

(2) It extends to the whole of the State of Kerala.

(3) This section shall come into force at once, and the Government may, from time to time, by notification in the Gazette, direct that the rest of this Act shall come into force in the whole or any portion of the State with effect from such date as may be specified in the notification.

2. *Definitions.*—(1) In this Act, unless the context otherwise requires,—

(a) "dealer" means a person carrying on, either personally or through any other person the business of selling lime-shells, whether wholesale or retail;

(b) "Licensing Authority" means an officer appointed by the Government to perform the functions of a Licensing Authority under this Act;

(c) "Lime-shells" means the shells of all varieties of shell-fish by whatever name called;

(d) "offer for sale" includes an intimation by a dealer or producer of the price proposed by him for a sale of lime-shells made by the publication of a price list, by exposing his lime-shells for sale in association with a mark indicating price, by the furnishing of a quotation or otherwise howsoever;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "producer" means a person carrying on the business of collecting lime-shells and stocking the same for sale.

(2) A dealer or producer shall be deemed to be in possession of lime-shells—

(a) when they are held on his behalf by another person;

(b) notwithstanding that they are mortgaged to another person.

3. *Licensing of dealers and producers.*—(1) No person other than a dealer or producer licensed under this section, shall carry on the business of selling lime-shells or of collecting lime-shells and stocking the same for sale.

(2) Every person, who carries on or wishes to carry on, the business of selling lime-shells or of collecting lime-shells and stocking the same for sale, shall make an application in the prescribed form for a licence to the Licensing Authority.

(3) The Licensing Authority may grant a licence in such form and subject to such terms and conditions as may be prescribed, or may refuse to grant a licence, in which case he shall communicate his reasons for such refusal to the applicant.

(4) The Licensing Authority may, at any time during the currency of a licence, rescind the licence by order in writing to the licence holder, for a breach of any of the terms and conditions of the licence.

(5) Any person aggrieved by an order of the Licensing Authority under sub-section (3) or sub-section (4) may appeal to such authority, and within such time, and in such form, as may be prescribed, the appeal shall be heard by the prescribed authority in such manner as may be prescribed, and the decision of that authority on the appeal shall be final.

4. *Fixing of maximum prices and maximum quantities which may be held or sold.*—(1) The Government may, by notification in the Gazette, fix in respect of lime-shells,—

(a) the maximum price or rate which may be charged by a dealer or producer;

(b) the maximum quantity which may at any one time be possessed by a dealer or producer;

(c) the maximum quantity which may in any one transaction be sold to any one person.

(2) The prices or rates and the quantities fixed in respect of lime-shells under this section may be different in different localities or for different classes of dealers or producers.

5. *Restrictions on sale, etc., where maximum is fixed under section 4.*—No dealer or producer licensed under this Act shall—

(a) sell, agree to sell, offer for sale or otherwise dispose of lime-shells for a price or at a rate exceeding the maximum fixed by notification under clause (a) of sub-section (1) of section 4;

(b) have in his possession at any one time a quantity of lime-shells exceeding the maximum fixed by notification under clause (b) of sub-section (1) of section 4; or

(c) sell, agree to sell or offer for sale to any person in any one transaction a quantity of lime-shells exceeding the maximum fixed by notification under clause (c) of sub-section (1) of section 4.

6. *Duty to declare possession of excess stocks.*—Any dealer or producer licensed under this Act, having in his possession a quantity of lime-shells exceeding that permitted under this Act, shall forthwith report the fact to the Licensing Authority and shall take such action as to the storage, distribution or disposal of the excess quantity as the Licensing Authority may direct.

7. *Refusal to sell.*—No dealer or producer licensed under this Act shall, unless previously authorised to do so by the Licencing Authority, refuse, without sufficient cause, to sell to any person lime-shells within the limits as to quantity, if any, imposed under this Act.

Explanation.—The possibility or expectation of obtaining a higher price for lime-shells at a later date shall not be deemed to be a sufficient cause for the purposes of this section.

8. *Cash memorandum to be given.*—(1) Every dealer or producer licensed under this Act, when selling lime-shells for cash, shall, if the amount of the purchase is five rupees or more, in all cases, and if the amount of the purchase is less than five rupees, when so required by the purchaser, give to the purchaser a cash memorandum containing such particulars of the transaction as may be prescribed.

(2) The Government may, by notification in the Gazette, exempt specified areas or classes of dealers or producers licensed under this Act from the operation of this section.

9. *Prohibition of sale, etc.*—If, in the opinion of the Government, it is necessary or expedient so to do, they may by order in writing,—

(a) prohibit the disposal of lime-shells except in such circumstances and under such conditions as may be specified in the order;

(b) direct the sale of lime-shells to any such dealer or class of dealers licensed under this Act and in such quantities as may be specified in the order;

and may make such further orders as appears to them to be necessary or expedient in connection with any order issued under this section.

10. *Penalties.*—(1) Whoever contravenes any of the provisions of this Act or any of the terms and conditions of a licence issued under this Act or any directions made under authority conferred by this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) A court convicting any person of any offence punishable under this Act may order that the stock of lime-shells in respect of which the offence was committed and any property involved in or utilised for the commission of such offence shall be forfeited to the Government

11. *Offences by companies.*—(1) If the person contravening the provisions of this Act is a company, every person, who, at the time the contravention was committed, was in charge of, and was responsible to the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate, and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

12. *Offences under the Act to be cognisable.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Central Act V of 1898) all offences under this Act shall be cognisable.

13. *Procedure.*—No person other than a police officer of or above the rank of an Inspector of Police shall investigate any offence under this Act.

14. *Powers of search and seizure.*—Any person competent to investigate any offence under this Act may search any place in which he has reason to believe that an offence under this Act has been, or is being, or is about to be, committed, and take possession of any stock of lime-shells in respect of which the offence has been, or is being, or is about to be, committed and any property involved in or utilised for the commission of such offence.

15. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

16. *Exemptions.*—(1) The provisions of this Act shall not apply to the collection, stocking or selling of lime-shells by any person as curios or for making ornaments.

(2) Subject to such conditions and restrictions as the Government may think fit to impose, they may, by general or special order notified in the Gazette, exempt from all or any of the provisions of this Act, any person or class of persons who,—

(i) collect lime-shells and stock them for conversion into lime for use as an ingredient in chewing material; or

(ii) collect and sell lime-shells for the edible content thereof.

17. *Power to make rules.*—(1) The Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the charging of fees for licenses issued under this Act;

(c) the maintenance by licensed dealers and producers generally or by any licensed dealer and producer in particular, of records of all sale and purchase transactions or disposals made by him; and the production of such records to the Licensing Authority;

(d) the furnishing of such information as may be required by the Licensing Authority with respect to the business carried on by any dealer or producer;

(e) the furnishing of returns to the Licensing Authority by licensed dealers and producers and the particulars which such returns shall contain.

(3) All rules made under this Act shall be published in the Gazette.

18. *Repeal.*—The Travancore-Cochin Lime-shells (Control) Act, 1956, is hereby repealed.

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.

THE PAYMENT OF SALARIES AND ALLOWANCES (AMENDMENT) BILL, 1957.

(Report of the Select Committee)

The Select Committee to which the Payment of Salaries and Allowances (Amendment) Bill, 1957 was referred, have considered the Bill and present this, their report, with the Bill as reported by the Committee annexed thereto.

2. The Bill was introduced in the Legislative Assembly on the 19th July 1957 and it was published in the Gazette dated the 6th August 1957. The motion for reference to a Select Committee was adopted on the 20th December 1957.

3. The Committee consider that the provisions of the Act may be given effect to from 1-4-1958. For this purpose, the Committee has modified clause I suitably.

4. The Committee also consider that it is not necessary to enhance the rate of Daily Allowance payable to Members of the Legislative Assembly. The Committee have therefore omitted clause 3.

5. The other changes made by the Committee are only verbal.

E. M. SANKARAN NAMBOODIRIPAD,
Chairman of the Select Committee.

3/805

THE PAYMENT OF SALARIES AND ALLOWANCES (AMENDMENT) BILL, 1957.

(As reported by the Select Committee)

A BILL TO AMEND THE PAYMENT OF SALARIES AND ALLOWANCES ACT, 1951.

Preamble.—WHEREAS it is expedient to amend the Payment of Salaries and Allowances Act 1951, for the purposes hereinafter appearing,

Be it enacted in the Ninth year of the Republic of India as follows: —

1. *Short title and commencement.*—This Act may be called the Payment of Salaries and Allowances (Amendment) Act, 1958 and it shall take effect from 1st April 1958.

2. *Amendment of section 8 (a).*—For the words 'one hundred and twenty' the words 'one hundred and fifty' shall be substituted.

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.

THE TRAVANCORE-COCHIN MEDICAL PRACTITIONERS (AMENDMENT) BILL, 1957.

(Report of the Select Committee.)

The Select Committee to which the Bill was referred, have considered the Bill and now submit this, their report, with the Bill as reported by the Committee, annexed thereto.

2. The Bill was published as a Gazette Extraordinary dated 14th December 1957.

3. The Bill was introduced in the Assembly on the 18th December 1957 and the motion for reference to the Select Committee was adopted on the 19th December 1957.

4. The Committee met on the 17th February 1958.

5. The Committee considered the Bill and recommended that it may be adopted without any modification.

Trivandrum,
17th February 1958.

DR. A. R. MENON,
Chairman of the Select Committee.

1/802.

THE TRAVANCORE-COCHIN MEDICAL PRACTITIONERS (AMENDMENT) BILL, 1957.

(As reported by the Select Committee)

BILL

to amend the Travancore-Cochin Medical Practitioners Act, 1953.

Preamble.—WHEREAS it is expedient to amend the Travancore-Cochin Medical Practitioners Act, 1953, for the purpose hereinafter appearing;

BE it enacted in the Eighth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Travancore-Cochin Medical Practitioners (Amendment) Act, 1957.

(2) It shall come into force at once.

2. *Amendment of section 31.*—To sub-section (1) of section 31 of the Travancore-Cochin Medical Practitioners Act, 1953 (Act IX of 1953), the following proviso shall be added, namely:—

"Provided that registered practitioners possessing the degree of B. A. M. or the diploma of D. A. M. granted by the University of Travancore or the University of Kerala shall be entitled to practise surgery or obstetrics without undergoing further practical training in surgery or obstetrics under modern medicine to the satisfaction of the appropriate council."

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.